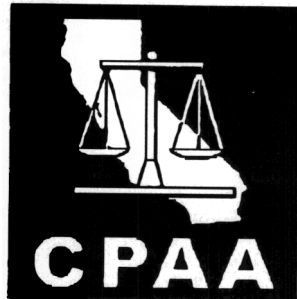


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June 22, 2004

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Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Via Facsimile (916) 322-6440
Original Via U.S. Mail

Re: FPPC Agenda Item #4
In the Matter of California Independent Business
Political Action Committee
And Charles H. Bell, Jr. FPPC No. 99/195

Dear Chairman and Commissioners:

The California Political Attorneys Association has followed this agenda item with interest since your March 2004 meeting. We applaud the Commission's rejection of the ALJ Decision, and your willingness to reach a stipulated agreement with this committee and its treasurer. However, we are compelled to write to express our concern over the implication that a committee treasurer may be held to a strict liability standard for an alleged violation of the mass mailing provisions of the Political Reform Act.

Leaving aside the troubling fact that the leading "sender identification" case was decided on a procedural point, rather than a substantive discussion of the rule itself, we note that nowhere in the Political Reform Act is there a strict liability standard for treasurers.

The Act's only requirement with respect to sender identification is that the sender of a communication identify itself by providing the name, address and city of the committee sending the mailer. A treasurer is not a "sender" of a mass mailer by virtue of being treasurer of a committee. While a treasurer may be liable under the provisions of Section 91006 under a theory of joint and several liability, that section, in our view does not establish strict liability for a committee treasurer.

Fair Political Practices Commission

June 22, 2004

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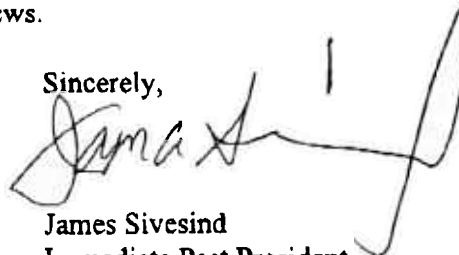
Similarly, your regulation regarding treasurer record-keeping should not serve as a bootstrap for establishing strict liability for a violation of the mass mailing provisions. While your regulation requires a committee to retain an original sample of each mass mailing "caused to be sent by the candidate, treasurer, elected officer, or committee," it recognizes the reality that someone "causes" a mass mailing to be sent. A treasurer does not "cause" a mass mailing to be sent by simply signing a check to a vendor for payment of the mailing.

While there may be circumstances when a treasurer is a decision-maker for a committee, it is also possible that a treasurer has taken all reasonable steps to notify committee vendors and consultants that sender identification is required on a committee mass mailing. Despite having acted reasonably by sending the notice to committee vendors, imagine a situation where a committee vendor "causes" a mass mailing to be sent. Sometime later, the printer sends an invoice to the treasurer for payment. In this case, the violation has occurred without any involvement of the treasurer. Signing the check, or refusing to sign the check, has no bearing whatsoever on the fact that the Political Reform Act has already been violated by the committee and/or the vendor who did not abide by the treasurer's directions to include sender identification on each mass mailing.

We offer no view on the facts of this particular case. However, we ask that you take the steps necessary to avoid probable cause findings, or even "theories" concerning strict liability of committee treasurers.

Thank you for considering our views.

Sincerely,

A handwritten signature in dark ink, appearing to read "James Sivesind", with a long, sweeping horizontal stroke extending to the right.

James Sivesind
Immediate Past President
California Political Attorneys Association